

IP 05-0825-C T/K DaimlerChrysler v Willoughby  
Judge John D. Tinder

Signed on 07/26/05

NOT INTENDED FOR PUBLICATION IN PRINT

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

DAIMLERCHRYSLER SERVICES	)	
NORTH AMERICA, LLC,	)	
	)	
Appellant,	)	District Court Cause No.
	)	1:05-cv-0825-JDT-TAB
vs.	)	
	)	
ANTHONY D. WILLOUGHBY d/b/a	)	
KUNG-FU THEATRES,	)	
	)	
Appellee.	)	
	)	
_____	)	Bankruptcy Court Cause No.
	)	03-09312-JKC-13
In re:	)	
	)	
ANTHONY D. WILLOUGHBY d/b/a	)	
KUNG-FU THEATRES,	)	
	)	
Debtor.		

**ENTRY ON MOTION TO DISMISS BANKRUPTCY APPEAL (Docket No. 3); MOTION  
TO CONSOLIDATE (Docket No. 9)<sup>1</sup>**

This matter comes before the court on a motion to dismiss filed by Debtor-Appellee Anthony D. Willoughby d/b/a Kung-Fu Theatres (hereinafter “Debtor”). The Debtor argues that the instant bankruptcy appeal has been rendered moot by the Chapter 13 Trustee’s declaration that the case is fully paid and eligible for discharge. The Creditor-Appellant, DaimlerChrysler Services North America, LLC (hereinafter “Creditor”), responds that the underlying bankruptcy is not moot because it is

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<sup>1</sup> This Entry is a matter of public record and will be made available on the court’s web site. However, the discussion contained herein is not sufficiently novel to justify commercial publication.

“inextricably intertwined” with another bankruptcy appeal presently before the court entitled *DaimlerChrysler Services North America, LLC v. Honeycutt*, Cause No. 1:05-cv-0810-JDT-WTL.

On the same date that it filed its one-sentence response in opposition to the Debtor’s motion to dismiss, the Creditor also filed a motion to consolidate the instant appeal with *Honeycutt*. However, neither in its opposition to the motion to dismiss nor in its motion to consolidate has the Creditor disputed the Debtor’s contention that this case is now moot. According to the Seventh Circuit, a bankruptcy appeal is moot “if there is no possible relief which the court could order that would benefit the party seeking it.” *In re Vlasek*, 325 F.3d 955, 961 (7<sup>th</sup> Cir. 2003). No matter how interesting the Creditor’s legal arguments on appeal might be, this court does not have jurisdiction to entertain them without an actual controversy. Here, the Creditor does not deny that it was fully paid prior to the effective date of the Bankruptcy Court order currently being appealed. No further relief can be obtained in this court.

Based on the foregoing, the Debtor’s motion to dismiss is hereby **GRANTED** (Docket No. 3). The Creditor’s Motion to Consolidate Appeals is **DENIED** as moot (Docket No. 9).

ALL OF WHICH IS ORDERED this 26<sup>th</sup> day of July 2005.

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John Daniel Tinder, Judge  
United States District Court

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